



CABINET FOR HUMAN RESOURCES
COMMONWEALTH OF KENTUCKY
FRANKFORT 40621

OFFICE OF THE COUNSEL

April 8, 1992

Michael L. Williams, Esq.
Assistant Public Advocate
Chief, Capital Trial Unit
Department of Public Advocacy
1264 Louisville Road
Perimeter Park West
Frankfort, Kentucky 40601

Re: Psychiatric/Investigative/Sociological
Services for Don Johnson

Dear Mr. Williams:

Your letter of April 1, 1992, to Secretary Heller has been referred to me for reply. You have requested that the Cabinet for Human Resources supply, on behalf of your client, Don Johnson, a criminal defendant in the case of Commonwealth v. Don Johnson, Perry Circuit Court No. 89 CR 115, psychiatric/sociological evaluations for the indictment and/or penalty phase of the trial, in addition to the services of an investigator/social worker to travel to various states as identified in your letter for purposes of gathering information and interviewing potential witnesses for Mr. Johnson's trial.

Our position concerning KRS 441.047 and the provision of defense oriented psychiatric services in general, remains as was expressed in correspondence to Mr. John R. Halstead in letters dated June 6, 1989, and June 15, 1989, from George D. Hancock, Director, Kentucky Correctional Psychiatric Center, and former Secretary Harry J. Cowherd, M.D., respectively, which you attached to your letter to Secretary Heller. If the Cabinet for Human Resources were to conduct its psychiatric evaluations as an expert for either the defense or the prosecution, then it could never serve the courts or the criminal justice system as an objective evaluator of a defendant's competency to stand trial or as to the existence of a mental defect or disease at the time of the alleged criminal act.

In conclusion, the Cabinet for Human Resources cannot supply you with the "defense" experts which you have requested in that such request exceeds the scope and interest of KRS 441.047. It will continue to provide evaluations as it has always done and as ordered by the Court pursuant to KRS Chapter 504 and/or KRS 441.047. The Cabinet will supply copies of its evaluation to whomever the Court may order. Your request for an investigator

Michael L. Williams, Esq.
Page Two
April 8, 1992

or social worker to travel throughout the country to gather information for your client is far beyond the organizational authority and budget of what any department or office of the Cabinet for Human Resources can provide and, accordingly, must be denied.

Thank you for your interest in this subject.

Best regards,


Master Childers II
General Counsel

MCII/jt

cc: Leonard E. Heller, Secretary

Dennis Boyd, Commissioner
Department for MH/MR Services

George Hancock, Director
Kentucky Correctional Psychiatric Center